

March 10, 2015

Hon. Jack Brandenburg, Chair  
Hon. David Robertson, Vice-Chair  
Michigan State Senate  
P.O. Box 30036  
Lansing, MI 48909

**Testimony on behalf of Auto-Owners in Support of SB 82 & SB 83**

Dear Senators Brandenburg and Robertson:

My name is June Summers Haas a partner in the Honigman law firm and a former Revenue Commissioner of the State of Michigan. I appear before you today as counsel to Auto-Owners Insurance Company to express Auto-Owners support for the passage of House Bills 4018 and 4019.

Auto-Owners is a Michigan corporation headquartered in Lansing in the business of providing insurance. Auto-Owners is one of the nation's largest insurers comprised of five property and casualty companies and one life/health/annuity insurer. Auto-Owners is represented by over 37,000 independent agents at more than 6,200 agencies in 26 states.

In the course of conducting its business activities, Auto-Owners, like many of Michigan businesses, often employs the services of various companies to assist Auto-Owners in meeting the needs of its independent agents and customers. Many of these services that used to be conducted with paper and US mail are now conducted over the internet using computers and electronic files. Let me provide an example. Auto-Owners often is required to provide confidential information about their insured to governmental agencies, for example information about automobile insurance coverage to the Secretary of State office. In the past, this information was transmitted by paper using mail delivery or facsimile systems. Now the information is transmitted electronically using a company that encrypts and transmits the data called IVANS, Inc. IVANS serves over 600 insurance and healthcare organizations, more than 30,000 independent insurance agents, and 135,000 healthcare providers. Auto-Owners uses IVANS' secure data communications to report information to governmental agencies. For example, in Alabama and South Carolina, the IVANS' secure data transmission service is used to deliver automobile policy information to the state department of motor vehicles. Auto-Owners sends encrypted data to an IP address. These designated ports are the entry into IVANS' secure data lines. IVANS delivers the data to the appropriate governmental entity. Essentially, the IVANS system is an electronic, secure delivery service similar to UPS, but instead, uses a secure communications line (as opposed to a truck) to deliver a data (rather than a parcel). Auto-Owners did not receive or download any software for IVANS' services. No computer code was received or downloaded for IVANS' service.

Auto-Owners had no idea that the Michigan Department of Treasury would consider these on-line services to be taxable until the auditor walked into their offices. Upon audit, the Michigan Department of Treasury assessed use tax on the fees paid for this data delivery service because a computer was involved which necessarily involved software, even though, the transaction is merely a secured data delivery service. Auto-Owners had numerous services it contracts for assessed tax because the services are now performed electronically, including, building valuation services, econometric analysis, data coding services, longitude and latitude determination services, motor vehicle data retrieval and secured data file transmission. Auto-Owners has prevailed on these assessments in Court but any company conducting business in Michigan that purchases services that are delivered using computer is subject to taxation even when software is not the object of the transaction or delivered as a part of the transaction. There is simply no basis for allowing backdoor taxation of electronic services and passage of these bills will prevent further assessment. The tax policies of this should not be a surprise to businesses. Services are not subject to tax unless and until the Legislature creates a statute delineating the taxable services.

We urge you to pass Senate Bill 82 and 83. Thank you.

Cc: Senator Marty Knollenberg  
Senator Tom Casperson  
Senator John Proos  
Senator Steven Bieda  
Senator Rebekah Warren